



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 26, 2019

By ECF

The Honorable Ronnie Abrams
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *American Civil Liberties Union et al. v. United States Department of Justice et al.*,
19 Civ. 5483 (RA)

Dear Judge Abrams:

This Office represents the Government in the above-referenced case brought under the Freedom of Information Act (“FOIA”). Based on information provided by the relevant Justice Department component, I write respectfully pursuant to the Court’s instruction during the telephonic status conference in this matter on August 14, 2019, to update the Court on the Government’s ongoing processing of the FOIA requests at issue in this case.

Review of Grant Application Records in Consultation with Law Enforcement Applicants and Number of Pages Released

As the Court is aware, at Plaintiffs’ request, Defendant Office of Justice Programs (“OJP”) has been prioritizing application materials related to the two grant programs at issue, a process which requires OJP to review the records, with input from the 28 separate applicants, as to law enforcement sensitive information under FOIA Exemption 7(E) and any other applicable FOIA exemption. Since the status conference 12 days ago, OJP has identified the entire universe of records relevant to this subset of documents, solicited the required input from the applicants on an expedited basis, and the current single employee in OJP’s FOIA unit has been diligently reviewing the documents. As a result, since the status conference 12 days ago, the Government has reviewed 413 pages, constituting two complete sets of applications, and made corresponding interim productions (of 399 pages due to duplicates).

OJP has been able to determine that the two completed applications are representative of the remaining 26 in terms of size, and accordingly, OJP believes that a realistic and reasonable timeframe for processing the remaining grant application materials—approximately 5,400 pages—is 11 weeks, or by November 11, 2019. This estimate takes into consideration the fact that a second individual will soon join OJP’s FOIA unit, which (allowing for appropriate training and familiarization with this specific matter) will shortly increase the Government’s processing capacity.

Analysis of the 12 Gigabytes of Other Potentially Responsive Data

As the Court directed, OJP has utilized any spare personnel time available when not devoted to review of the grant application materials to gain a more detailed understanding of the other 12 gigabytes of potentially responsive information. At the outset, although Plaintiffs have

requested that the Government identify with precision what subsets of this data correspond to which of their 11 specific, separate requests, such an analysis is not feasible at this stage. By way of background, OJP's electronic discovery tool, which processes various different types of documents and data, cannot aggregate and present records in an immediately and easily consumable manner. Instead, what would constitute about a "page" of information can take up to 45 sections to load. The details summarized below were gleaned from a limited, manual review that took approximately three hours.

Based on that review, the 12 gigabytes appear to consist of approximately 50,000 pages (of which there may be a significant number of duplicates, in addition to ultimately non-responsive records) that include, among other things: drafts and final versions of outreach and solicitation materials, records associated with webinars, newsletters, and posting and status updates, as well as spreadsheets, resumes, budget documents, emails, reports, and other internal, deliberative documents.

Review and process of all 12 gigabytes would plainly be unduly burdensome and unreasonable. However, as the Government stated previously, OJP will work in good faith with Plaintiffs to develop a plan as to how best to refine Plaintiffs' requests in order to identify a reasonable set of responsive records for processing. The Government proposes to begin that process as soon as the prioritized grant application materials are fully processed.

Details of Search

Finally, as directed, the Government provides the following details about the parameters of OJP's search to date. The locations searched are: OJP's grant management system, which is the software platform for managing grant materials; and the email accounts, network drives, and work computer hard drives of the four OJP employees who are relevant to the two grant programs, including the program administrator and the individual listed as the staff contact. In terms of search terms, OJP utilized a number of keywords, both standalone and in phrases, specifically designed to capture responses to each of Plaintiffs' individual requests. The searches covered all records created or modified from October 1, 2017, to the date of the search, and were run on in various parts on October 18, 2018, and between July 18 and August 5, 2019.

In sum, the Government has been working with all due diligence to process the FOIA requests at issue, in line with the priorities articulated by Plaintiffs. For the reasons explained above, the Government respectfully requests that the Court endorse the proposed schedule, whereby OJP will (1) complete review of the approximately 5,400 pages of the remaining grant application materials by November 11, 2019, and (2) confer with Plaintiffs immediately thereafter about how next to proceed as to the remaining 12 gigabytes of potentially responsive information.

Thank you for your consideration.

Respectfully,

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